

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:02-CR-262

v.

HON. ROBERT HOLMES BELL

WILLIE JOE BRIMITE,

Defendant.

/

MEMORANDUM OPINION AND ORDER

Defendant Willie Joe Brimite has filed a motion for modification or reduction of sentence (ECF No. 93) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

The Probation Department filed a sentence modification report on 9/4/2015 (ECF No. 104). In its report, the probation department recommended the defendant is eligible for reduction in sentence based on defendant currently being an inmate, USSG § 2D1.1 was used in the guideline calculations, and the guideline range applicable to the defendant subsequently has been lowered as

a result of the retroactive amendment to the Sentencing Guidelines (782). In its report the probation department recommends a reduction of sentence to 162 months incarceration. A reduction of sentence is consistent with the policy statements of the U.S. Sentencing Commission. Counsel for the Defendant filed a response to the Sentence Modification Report contending that a reduction below the amended range comparable to the reduction below his original guideline range may be made. Counsel for the government filed a response to the Sentence Modification Report indicating it has no objection to the recommendation of a reduction to 162 months, however, notes that a pattern of past violations indicates a very poor record of compliance when Defendant was on state probation and parole. After a review of the probation report and counsels' responses, this Court, in its discretion will grant Defendant's motion.

NOW THEREFORE, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (ECF No. 93) pursuant to 18 U.S.C. § 3582(c)(2) is **GRANTED**. Defendant Willie Joe Brimite's sentence is reduced to **162 months** imprisonment, as recommended by the Probation Department. This reduction is effective November 1, 2015. An order effectuating the sentence reduction shall issue forthwith.

Dated: October 20, 2015

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE